



[4830-01-P]

Department of the Treasury

Internal Revenue Service

26 CFR Part 1

[TD 9885]

RIN 1545–BO56

Base Erosion and Anti-Abuse Tax; Correcting Amendment

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to Treasury Decision 9885, which was published in the **Federal Register** on Friday, December 6, 2019. Treasury Decision 9885 implementing the base erosion and anti-abuse tax, designed to prevent the reduction of tax liability by certain large corporate taxpayers through certain payments made to foreign related parties and certain tax credits.

DATES: *Effective date.* This correction is effective on [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and is applicable on December 6, 2019.

FOR FURTHER INFORMATION CONTACT: Concerning §1.59A-9, Azeka J. Abramoff, Sheila Ramaswamy, or Karen Walny at (202) 317-6938; concerning §1.6038A-2, Brad McCormack or Anand Desai at (202) 317-6939 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9885) that are the subject of this correction are under sections 59A and 6038A of the Internal Revenue Code.

Need for Correction

As published December 6, 2019 (84 FR 66968), the final regulations (TD 9885; FR Doc. 2019-25744) contained errors that may prove misleading and therefore need to be corrected.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.59A-9 is amended by revising the text of paragraphs (b)(1) and (c)(2)(ii) and the first sentence of paragraph (c)(5)(ii) to read as follows:

§ 1.59A-9 Anti-abuse and recharacterization rules.

* * * * *

(b) * * *

(1) * * * If a taxpayer pays or accrues an amount to one or more intermediaries (including an intermediary unrelated to the taxpayer) that would have been a base erosion payment if paid or accrued to a foreign related party, and one or more of the intermediaries makes (directly or indirectly) corresponding payments to or for the benefit of a foreign related party as part of a transaction (or series of transactions), plan or arrangement that has as a principal purpose of avoiding a base erosion payment (or reducing the amount of a base erosion payment), the role of the intermediary or intermediaries is disregarded as a conduit, or the amount paid or accrued to the intermediary is treated as a base erosion payment, as appropriate.

* * * * *

(c) * * *

(2) * * *

(ii) * * * The arrangement between FP, DC, and Corp A is deemed to result in a \$95x base erosion payment under paragraph (b)(1) of this section because DC's payment to Corp A would have been a base erosion payment if paid to a foreign related party, and Corp A makes a corresponding payment to FP as part of the series of transactions that has as a principal purpose of avoiding a base erosion payment.

* * * * *

(5) * * *

(ii) * * * The transactions between FP, DC, and Bank are deemed to result in a base erosion payment under paragraph (b)(1) of this section because DC's payment to Bank would have been a base erosion payment if paid to a foreign related party, and Bank makes a corresponding payment to FP as part of the series of transactions that

has as a principal purpose of avoiding a base erosion payment.* * *

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Par. 3. Section 1.6038A-2(g) is amended by revising the third sentence to read as follows:

§ 1.6038A-2 Requirement of return.

* * * * *

(g) * * * Paragraph (b)(7)(ix) of this section applies to taxable years beginning on or after June 7, 2021. * * *

Martin V. Franks, Chief,
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